

As an example of proposed rules decreasing restrictions on these Phase I licensees, a licensee seeking to relocate within the newly defined service area would file a modification application to replace its existing site-specific authorization with a service area authorization that permits relocation on a permissive basis through minor modification of the service area authorization. Moreover, the existing deadline of December 31, 1995, imposed on Phase I licenses for the construction and operation of primary base stations will be extended to a date four months after the grant of the proposed service area authorization.

V. Reporting, Recordkeeping and Other Compliance Requirements

The Commission is proposing to generally decrease the burden on non-nationwide, Phase I licensees. A licensee would be able to replace its existing site-specific authority with an authorization that permits it to relocate authorized base stations or add fill-in base stations within an area to be defined by its existing 38 dBuV/m service contour through minor modification procedures. However, the licensee would be required to file a modification application during a filing window to be established upon the adoption of final rules in order to obtain the authorization to operate within the proposed service area. Also, the licensee would be required to notify the Commission of the construction of any fill-in stations.

VI. Federal Rules which Overlap, Duplicate, or Conflict with these Proposals

None.

VII. Significant Alternatives

The Commission believes that the modification licensing procedure proposed for non-nationwide Phase I licensees represents the best balance of providing them with the most flexibility and the least regulatory burden possible. It enables licensees to exchange their site-specific license for a broad, service-area license that permits them to move sites freely within the transmission area of the existing license through modification applications, while ensuring that transmissions do not extend to new geographic areas so as to require competing applications under initial application procedures.

11. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this

document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this *Fourth Notice of Proposed Rulemaking*, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Fourth Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

12. Authority for issuance of this *Fourth Notice of Proposed Rulemaking* is contained in Sections 4(i), 303r, and 332 of the Communications Act of 1934 as amended; 47 U.S.C. 154(i), 303(r), and 332.

List of Subjects in 47 CFR Part 90

Business and industry, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Petition Finding to list *Silene verecunda* ssp. *verecunda* (Mission Dolores Campion)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding on a petition to list *Silene verecunda* ssp. *verecunda* (Mission Dolores Campion) pursuant to the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial data, the Service finds that listing this species is not warranted at this time. The known populations of *S. verecunda* ssp. *verecunda* are unlikely to be affected by toxic waste site studies and clean-up related to military base closure actions. The population status and vulnerability of *S. verecunda* ssp. *verecunda* to threats is unknown for the central part of its range including

Montara Mountain in San Mateo County to Rancho del Oso in Santa Cruz County, California. The recent discovery of *S. verecunda* ssp. *verecunda* in chaparral and mixed evergreen plant communities indicates that this species may be more widely distributed and have broader habitat affinities than previously believed.

DATES: The finding announced in this document was made on July 24, 1995. Comments and materials regarding this petition finding may be submitted to the Field Supervisor at the address listed below until further notice.

ADDRESSES: Data, information, comments, or questions concerning this finding may be sent to the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E-1803, Sacramento, California 95825-1846. The petition finding, supporting data, comments, and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, staff biologist, at the above address or telephone 916/979-2120.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that after receiving a petition that is found to present substantial information indicating that the petitioned action may be warranted, the Service make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted but precluded from immediate proposal by other pending proposals of higher priority. Such 12-month findings are to be published promptly in the **Federal Register**.

On May 29, 1991, the Service received a petition dated May 28, 1991, from Mr. Brian O'Neill, General Superintendent of the Golden Gate National Recreation Area (GGNRA), National Park Service, San Francisco, California, to emergency list five candidate plants including *Silene verecunda* ssp. *verecunda* (Mission Dolores Campion). The petition cited threats to this species that would result from military base closure activities on the Presidio in San Francisco, California. These activities included hazardous or toxic waste site studies and clean-up, and increased traffic and recreational activities. A 90-day finding was made by the Service that the petition presented substantial information indicating that the

requested action may be warranted. The 90-day finding was published in the **Federal Register** on August 19, 1992 (57 FR 37513). A status review was continued for this category 2 candidate species (58 FR 51186; September 30, 1993).

Silene verecunda ssp. *verecunda* is a perennial herb in the pink family (Caryophyllaceae) that grows from 10 to 70 centimeters (4 to 28 inches) tall. Each flower has five pink to rose colored notched petals, and the purplish sepals are united into a tube, making the flower look bell-shaped.

Silene verecunda ssp. *verecunda* previously was reported to occupy open grassy areas in sandy to rocky soils in coastal strand, coastal prairie, and coastal scrub plant communities ranging from San Francisco south to Santa Cruz County (Young 1979). Recently, *S. verecunda* ssp. *verecunda* has been reported to occur in chaparral and mixed evergreen forest plant communities (Skinner and Pavlik 1994; Lion Baumgartner, Thomas Reid Associates, *in litt.* 1994). Historical populations from Lake Merced and Mission Dolores in San Francisco have been extirpated due to commercial and residential development. Currently there are about 2,000 known individuals of *S. verecunda* ssp. *verecunda* found primarily on private or non-Federal land, including about 700 plants on San Bruno Mountain (Lion Baumgartner, *in litt.* 1994). Three populations, totaling seven hundred plants according to a 1993 census, occur on the Presidio in San Francisco. It is not known how much potential habitat, or numbers of individuals may occur from Montara Mountain in San Mateo County to Rancho Del Oso in Santa Cruz County.

The northern range of *Silene verecunda* ssp. *verecunda* overlaps a rapidly urbanizing portion of the San Francisco Bay area. Most of the habitat within the northern part of the range of *S. verecunda* ssp. *verecunda* has been disturbed or eliminated except for areas on San Bruno Mountain that are protected for the conservation of the endangered mission blue butterfly (*Icaricia icarioides missionensis*). Implementation of the San Bruno Mountain Habitat Conservation Plan (HCP) developed under sections 10(a)(1)(B) and 10(a)(2)(A) of the Act has conserved habitat for the butterfly, and indirectly benefits *S. verecunda* ssp. *verecunda* by maintaining the habitat in which both species occur. On federally owned land on the Presidio in San Francisco, increased human access and activities potentially threatened three populations of *S. verecunda* ssp. *verecunda*. One of these populations has

been fenced to restrict access, and the other two populations are expected to be protected by fencing when ownership of the Presidio is transferred from the Department of Army to the National Park Service. Invasive non-native vegetation is encroaching on some populations of *S. verecunda* ssp. *verecunda*. On the Presidio, however, there are ongoing efforts to remove the invasive species. There is no quantitative trend data to assess the extent to which *S. verecunda* ssp. *verecunda* has or will be impacted by non-native plants. Therefore, such threat to this species is not known to be immediate or imminent. The known populations of *S. verecunda* ssp. *verecunda* that occur on the Presidio are unlikely to be affected by toxic waste site studies and clean-up. This species does not occur near the area where these activities most likely would occur (Peter Lacivita, U.S. Army Corps of Engineers, pers. comm. 1993). Neither disease, predation, or overutilization are known to be a threat to *S. verecunda* ssp. *verecunda*.

Stochastic (random) and natural events can cause population fluctuations or even population extirpations but are not usually a concern until the number of individuals or geographic distribution become vulnerably small. A combination of remnant small populations, a narrow range, and restricted habitat, could make all or a significant part of any population susceptible to destruction from stochastic natural events, such as flood, drought, disease, or other natural occurrences (Shaffer 1981, Primack 1993) such as genetics and reproductive success.

No demographic studies exist to indicate that the reproductive success of *Silene verecunda* ssp. *verecunda* is threatened, or is vulnerable to adverse impacts from random events. There is no evidence at this time to suggest that reproductive capacity is a factor posing a threat to the survival of the species. Low seed production in perennial plants is not necessarily a trait that makes a species vulnerable to extinction. Huenneke (1986) indicates that low genetic diversity in plants is rarely seen as a threat to their survival. Intrinsically, most rare plants are likely to have genetic systems enabling them to cope with the genetic consequences of rarity.

The population status of *S. verecunda* ssp. *verecunda* and its vulnerability to threats in the central part of its range (i.e., Montara Mountain in San Mateo County to Rancho del Oso in Santa Cruz County) are not known at this time. Moreover, the discovery of *S. verecunda*

ssp. *verecunda* in chaparral and mixed evergreen plant communities is an indication that this taxon may be more widely distributed and have broader habitat affinities than previously believed. Chaparral covers an extensive portion of the Coast Ranges in the San Francisco Bay area. Consequently, the unknown overall status of the taxon makes any assumptions about vulnerability of *S. verecunda* ssp. *verecunda* to current threats unsupportable at this time.

The Service has reviewed the petition, other available literature and information, and consulted with biologists and researchers familiar with *Silene verecunda* ssp. *verecunda*. On the basis of the best scientific and commercial information available regarding *S. verecunda* ssp. *verecunda*, the Service finds that the petitioned action is not warranted at this time because there is insufficient information about the taxon's status and its vulnerability to threats. The Service will continue to maintain *S. verecunda* ssp. *verecunda* as a species of concern. The Service encourages all interested parties to investigate the population status of *S. verecunda* ssp. *verecunda* and its vulnerability to threats, with particular reference to the southern and central portions of its range and populations occurring in chaparral and mixed evergreen plant communities. If additional data becomes available in the future, the Service may reassess the listing priority for this species or the need for listing.

Author

The primary author of this document is Kirsten Tarp (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: July 24, 1995.

John G. Rogers,

Acting Director, Fish and Wildlife Service.
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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List the Mohave Ground Squirrel as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.